

FILED
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

4:01 pm, Jul 31, 2018

-----X
ALEXANDER SIGUENZA TORRES,

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Plaintiff,

-against-

ORDER

17-CV-5123 (SJF)(AYS)

DJ SOUTHHOLD, INC., d/b/a Dunkin' Donuts,
SANJAY JAIN, NERRJA JAIN and
SHASHANK JARETH,

Defendants.

-----X
FEUERSTEIN, District Judge:

Pending before the Court is the Report and Recommendation of the Honorable Anne Y. Shields, United States Magistrate Judge, dated July 12, 2018 ("the Report"), *inter alia*, recommending that the motion of plaintiff Alexander Siguenza Torres ("plaintiff") pursuant to Rule 15 of the Federal Rules of Civil Procedure, seeking leave to amend the complaint to add Krishnaba Zala and Sneha Vahela as additional plaintiffs and DJ Southampton, Inc., DJ Hampton Bays, Inc., DJ Riverhead, Inc. and DJ Bridgehampton, Inc. as additional defendants, be granted. A copy of the Report was served upon counsel for all parties via ECF on July 12, 2018. (Docket Entry ["DE"] 29). No party has filed any objections to the Report, nor sought an extension of time to do so. For the reasons set forth herein, the Report is accepted in its entirety.

I. DISCUSSION

Section 636(b)(1)(A) of Title 28 of the United States Code permits a district judge to "designate a magistrate judge to hear and determine any [nondispositive] pretrial matter," not otherwise expressly excluded therein. Any party may serve and file objections to a magistrate

judge's order on a nondispositive pretrial matter within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(a). Upon consideration of any timely interposed objections and "reconsider[ation]" of the magistrate judge's order, 28 U.S.C. § 636(b)(1)(A), the district judge must modify or set aside any part of the order that "is clearly erroneous or contrary to law." *Id.*; *see also* Fed. R. Civ. P. 72(a). However, a party may not assign as error any defect in a magistrate judge's order to which no timely objection has been made. Fed. R. Civ. P. 72(a).

Generally, motions for leave to amend are considered to be nondispositive and subject to review under the "clearly erroneous or contrary to law" standard of Rule 72(a) of the Federal Rules of Civil Procedure, *see Fielding v. Tollaksen*, 510 F.3d 175, 178 (2d Cir. 2007) ("[a]s a matter of case management, a district judge may refer nondispositive motions, such as a motion to amend the complaint, to a magistrate judge for decision without the parties' consent"); *Rienzi & Sons, Inc. v. Puglisi*, 638 F. App'x 87, 92 (2d Cir. Feb. 10, 2016) (summary order) (declining to consider the merits of the plaintiff's claim that the magistrate judge abused her discretion in denying its motion to amend its pleading because it failed to timely object to the magistrate judge's order pursuant to Fed. R. Civ. P. 72(a)), unless the magistrate judge's decision effectively dismisses or precludes a claim, thereby rendering the motion to amend dispositive. *See, e.g. Jean-Laurent v. Wilkerson*, 461 F. App'x 18, 25 (2d Cir. Feb. 8, 2012) (summary order). As Magistrate Judge Shields determined, *inter alia*, that plaintiff's motion to amend should be granted, the motion is nondispositive and the Report is subject to review under Rule 72(a)'s "clearly erroneous or contrary to law" standard.

Since no party has filed any timely objections to the Report, and the Report is not clearly erroneous or contrary to law on its face, the Report is accepted in its entirety. For the reasons set

forth in the Report, plaintiff's motion for leave to file an amended complaint is granted and plaintiff's amended complaint is accepted for filing *nunc pro tunc*.

II. CONCLUSION

For the reasons set forth herein, Magistrate Judge Shields's Report is accepted in its entirety and, for the reasons set forth therein, plaintiff's motion for leave to file an amended complaint is granted and plaintiff's amended complaint is accepted for filing *nunc pro tunc*.

SO ORDERED.

/s/
SANDRA J. FEUERSTEIN
United States District Judge

Dated: July 31, 2018
Central Islip, New York